IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 646 of 1995

RAJ MAL

V/S

STATE & ANR

Mr. HARISH PUROHIT for Mr. SANJAY MATHUR, for the appellant / petitioner

Mr. OP BOOB, AGA, for the respondent

Date of Order : 11.12.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

By this petition, the petitioner seeks to challenge the order Annexure-2 dt. 7.2.1995, and claims a direction to restore the position of the petitioner, as it was, prior to the issuance of the order dt. 19.10.1994, Annex.1.

By the order dt. 19.10.1994 punishment was imposed on the petitioner, consequent upon departmental enquiry, and thereby the petitioner was reverted from the post of U.D.C. to L.D.C., and it was also directed, that he will have bottom seniority in the cadre of L.D.C. Accordingly vide Annexure-2 the fixation of the petitioner has been made.

The order Annexure-2 has been challenged on the

ground, that Annexure-1 has been wrongly interpreted, and that the penalty imposed vide order dt. 19.10.1994, Annex.1, is a major penalty, which could not be imposed without holding enquiry under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958.

A look at the order Annexure-1 shows, that it clearly recites, that the enquiry was conducted against the petitioner under Rule 16 of the C.C.A. Rules, by serving a regular charge-sheet, and enquiry officer was appointed. The petitioner did not file any reply to the charge-sheet, then even before the enquiry officer also the petitioner did not lead any evidence in rebuttal, and the enquiry officer submitted his report. Then, the disciplinary authority considered the report, and found that the petitioner had admitted charge no.2, and charge no. 3 was found proved on the basis of evidence of P.W.4 Parasmal, then charge no. 5 was found proved on the basis of the evidence of the witness mentioned in the order. Then, copy of the enquiry report was sent to the petitioner, which was duly received, but then the petitioner neither submitted any reply, nor even responded, and thereupon the disciplinary authority has passed the order of punishment dt. 19.10.1994 Annex.1.

In my view, thus it cannot be said, that without

holding enquiry under Rule 16, the punishment has been imposed. Then, so far as misinterpretation of Annexure-1 is concerned, a bare reading of punishment part of the order does show, that the petitioner was punished with punishment of reversion from the post of U.D.C. to L.D.C., and it was also directed, that his seniority in the cadre of L.D.C. shall be bottom seniority. Accordingly, the petitioner has been placed at the bottom seniority, and directing that he would earn the next annual grade increment on 19.10.1995, i.e. after completion of one year from the date of passing of the punishment order. Thus, it cannot be said that the order has been misinterpreted at all.

These are the aspects, considered from the stand point of pleadings taken. It is, however, different story, that the order of punishment was appelable, if the petitioner was at all aggrieved, and even the order Annexure-2 could also be challenged by the petitioner, by way of filing appeal before Rajasthan Civil Services Appellate Tribunal. That having not been done, the petitioner had straightway rushed to this Court, which he could not. Be that as it may.

Since I have considered the matter on merits also, and I find that the petitioner is not entitled to any of the reliefs claimed, this writ petition is required to be dismissed. Accordingly, the writ petition is found to have

no force, and the same is therefore dismissed.

(N P GUPTA),J.

/Sushil/